IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 1244 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE Z.K.SAIYED

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Appellant(s)
Versus
RAMESHBHAI CHATURBHAI RATANI - Opponent(s)

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Appearance :
MS DARSHANA PANDIT, APP for Appellant(s) : 1,
MR MEHUL H RATHOD for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE Z.K.SAIYED

Date : 20/12/2007

ORAL JUDGMENT

1. The present acquittal Appeal has been filed by the State, under Section 378 Cr. P.C., against the Judgment and order dated 1.7.1999, rendered

in Criminal Case No.528 of 1992 by the learned Judicial Magistrate, First Class, Deodar. The said case was registered against the present respondent for the offence under Section 7 & 16 of the Prevention of Food Adulteration Act (for short “PFA Act”) in the Court of learned JMFC, Deodar. The said Judgment of the trial Court has been challenged by the State on the ground that the Judgment and order passed by learned Magistrate is against the law and evidence on record.

2. According to the prosecution case the complainant – Food Inspector Shri D.C. Patel, along with Helper K.M.Nayak, visited the shop, namely, “Hardik Provision Store”, of the present respondents – accused, which is situated on Main Road, Deodar, on 6.4.1992 and purchased 600 grams Black Pepper (“Kala Mari”) from the shop of the respondent. The said sample Black Pepper (Kala Mari) was sealed under the instruction of Food Inspector and then the same was sent to the Public Analyst for Report. Upon receipt of the Report from the Public Analyst it was found that the food sample was adulterated. So, the complaint was filed against the present respondents – accused. Thereafter the charge was framed against the respondents – accused and accused came to be tried.

3. At the conclusion of trial and after appreciating the oral as well as documentary evidence, the learned Magistrate vide impugned Judgment, acquitted the respondent – accused.

4. Learned A.P.P. Ms. Darshana Pandit, appearing on behalf of the appellant – State has contended that the Judgment and order of acquittal is contrary to law and evidence on record and is not proper and is against the provision of law. She has also contended that the learned trial Judge has failed to appreciate that the sample of Black Pepper was found to be adulterated and was below the standard quality as per the Rules of Prevention of Food Adulteration Rules, 1954. She has contended that the expert evidence is required to be considered in favour of the prosecution but the trial Court has failed to appreciate the report of Central Food Laboratory. She has also contended that the said sample was taken in presence of independent witnesses and contended that the prosecution has proved its case beyond reasonable doubt, yet the trial Court has failed to appreciate the oral as well as documentary evidence and erred in acquitting the respondent – accused. She has also contended that from the Report of the Public Analyst it is established that the act of the present respondent is covered within the provision of the PFA Act.

5. Learned Advocate Mr. Mehul Rathod, appearing for the respondents – accused has contended that Black Pepper (Kala Mari) was purchased by the complainant and it is alleged by the prosecution that the Black Pepper contained mineral oil. He has also contended that the Black Pepper in the process of processing is always rubbed with oil and contended that the Judgment and order of the trial Court is just, proper and legal. He has relied upon the decision in the case of "The Food Inspector v/s. R. Chunnalal", reported in 1994 (2) FAC 159 and contended that the Andhra Pradesh High Court has also decided and settled the said Issue in the said Judgment and the facts and the contentions of the said Judgment and order is applicable to the present case.

6. I have perused the papers produced in the case and read the evidence led before the trial Court as well as the Expert's opinion. I have also gone through the Judgment of the trial Court. It appears that the black pepper contains mineral oil. It is not in dispute that the black pepper in the process of processing is always rubbed with oil and during the examination of said sample the presence of oil can be established by the Analyst. In view of the observation made by the trial Court, in my view, the prosecution has failed to establish that the said black pepper is injurious to health. In the facts of the case I am in complete agreement with the reasons

assigned by the trial Court.

7. It is settled legal position that in acquittal Appeal, the Appellate Court is not required to re-write the Judgment or to give fresh reasonings when the Appellate Court is in agreement with the reasons assigned by the trial Court acquitting the accused. In the instant case, this Court is in full agreement with the reasons given and findings recorded by the trial Court while acquitting the respondents – accused and adopting the said reasons and for the reasons aforesaid, in my view, the impugned Judgment is just, legal and proper and requires no interference by this Court at this stage. Hence, this Appeal requires to be dismissed.

8. In the result, the Appeal is hereby dismissed. The impugned Judgment and order dated 1.7.1999 passed by the learned J.M.F.C., Deodar in Criminal Case No. 528 of 1992, acquitting the respondents – accused, is hereby confirmed.

(Z.K.SAIYED,J.)

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